

MONTANA LEGISLATIVE HISTORY

Chapter 259 19 71

Bill H 537 S _____ Original bill & history ____C

H. Committee on Judiciary

Hearing Date(s) Feb 01 ✓ C

Feb 02 ✓ C

_____ C

_____ C

Date Out Feb 02 ✓ C

S. Committee on Judiciary

Hearing Date(s) Feb 18 ✓ C

_____ C

_____ C

_____ C

Feb 18 ✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

February 1, 1971

JUDICIARY COMMITTEE

The meeting was called to order in room 300 of the Capitol Building at 9:00 a.m. on Monday, February 1, with Representative Jeffrey J. Scott, Chairman, presiding. All members were present except Mr. Bennet, Mr. Towe, Mr. Baeth (excused) and Mr. Murphy (excused) and Mr. Parrish (excused).

HOUSE BILL 401 Representative S. A. Olsen gave an explanation of this bill, which would validate bond issue for the purposes of the municipal airport act. There were no further proponents and no opponents. The hearing on this bill was closed.

Executive Session: A motion was made DO PASS. Motion carried.

HOUSE BILL 384 There were no witnesses present. The hearing on this bill was passed for the day.

HOUSE BILL 535 At the request of the sponsor, the hearing on this bill was continued until Wednesday.

HOUSE BILL 536 Representative Hall gave an explanation of this bill which would revise the powers of attorney, and there were no further proponents and no opponents. Questions were asked and the hearing on this bill was closed.

Executive Session: Mr. Hall moved that this bill do pass. Motion failed. A motion was made that this bill DO NOT PASS. Motion carried.

HOUSE BILL 537 Representative Hall gave an explanation of this bill, which would extend a contractual right to attorney fees granted to one party to a contract to the prevailing party in any lawsuit. There were no further proponents and no opponents. Questions were asked and the hearing on this bill was closed.

Executive Session: Mr. Hall moved that House Bill 537 do pass. A substitute motion was made that House Bill 537 do not pass. Discussion followed. Mr. Greely moved that House Bill 537 be passed for the day. Motion carried.

HOUSE BILL 538 Representative Hall gave a description of the contents of this bill, which would amend section 92-204 by deleting the words "intentional and malicious" and substitute therefore the words "grossly negligent." There were no further proponents. Mr. Bill Mather appeared as an opponent to House Bill 538. There were no further opponents. Questions were asked and the hearing on this bill was closed.

Executive Session Mr. Mather moved that House Bill 538 DO NOT PASS. Mr. Greely made a substitute motion that House Bill 538 do pass. Motion failed. A vote was taken on the motion

HOUSE BILL 415

Representative Towe gave an explanation of this bill, which limits liability of an employer to subsequent injury only. Mr. Ernest Post, representing the Montana State AFL-CIO gave a statement in support of this bill. Questions were asked.

Executive Session:

Mr. Mather moved that House Bill 415 be transferred to the Labor and Compensation Committee. Motion carried.

HOUSE BILL 539

The hearing on this bill was heard on January 30. Mr. Hall wanted to know the concensus of the committee as to whether they thought this bill should be circulated through the bar before it be passed on to the legislature. Mr. McNamer moved that House Bill 539 be tabled. Motion carried. Mr. Mather made a motion that the chairman of the Judiciary Committee advise the chairman of the committee drafting this bill, the president of the Montana Bar Association, and the Supreme Court that this bill will be circulated at court expense among the members of the bar for their consideration. A vote was taken and carried unanimously.

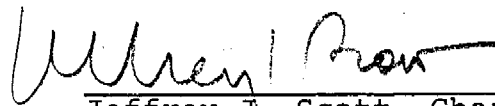
HOUSE BILL 537

The hearing on this bill was heard on Monday, February 1.

Executive Session:

Mr. Hall moved that House Bill 537 do pass. Mr. Hall made a substitute motion that the bill be amended on page 1, line 17 of the introduced bill by striking the words "and prevail." Motion carried. Mr. Hall moved that House Bill 537 DO PASS as amended. Mr. Mather made a substitute motion that this bill do not pass. This motion failed. A vote was taken on the motion to PASS AS AMENDED and motion carried.

There being no further business before the committee, the meeting was adjourned.



Jeffrey J. Scott, Chairman


Alice Omang, Secretary

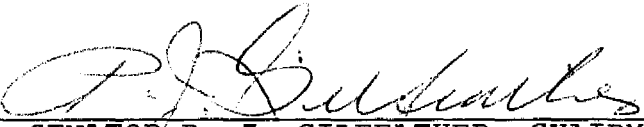
Minutes of Meeting of February 18, 1971

Page 2.

House Bill 537 was considered by the committee. Senator Moore MOVED THAT IT BE CONCURRED IN. THIS WAS SECONDED BY Senator Sheehy. THE MOTION WAS CARRIED.

Chairman Gilfeather scheduled House Bills that remained to be heard and worked on, for Monday, Feb. 22.

The meeting was adjourned.



SENATOR P. J. GILFEATHER, CHAIRMAN

10 days before
election—posting
of notices.

(3) Ten (10) days or more prior to the election, the election judges shall post one (1) notice at the place where the election will be held and the other in one (1) of the most public places in the precinct."

Amending clause.

Section 5. Section 23-3206, R.C.M. 1947, is amended to read as follows:

Instruction for
judges and clerks.

"23-3206. **Instruction of judges and clerks.** (1) Before each election, all election judges and clerks who do not possess a certificate of instruction shall be instructed by a person named by the commissioners in the powers, duties, and liabilities of election judges.

Meetings.

(2) The instructor shall call meetings as necessary.

2 hours.

(a) The election judges and clerks shall attend each meeting and receive at least two (2) hours of instruction.

Composition.

(b) Each election judge and clerk shall receive compensation fixed by the commissioners at the prevailing federal minimum wage for instruction to be paid at the same time and in the same manner as for services on election day.

Certificate of
completion valid
for 2 years.

(3) Each judge and clerk shall receive a certificate of completion from the instructor upon completion of the course. Each certificate is valid for a period of two (2) years.

Certificate required.

(4) No person shall serve as election judge or clerk without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.

Notice of
instruction.

(5) Notice of place and time of instruction must be given to the county chairmen of the two (2) major political parties by the commissioners."

Approved March 9, 1971

CHAPTER NO. 259

An Act to Extend a Contractual Right to Attorney Fees Granted to One Party to a Contract to the Prevailing Party in Any Lawsuit on Such Contract Whether or Not the Contract Expressly Provides for Such Fees as to Such Prevailing Party.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever by virtue of the provisions of any contract or obligation in the nature of a contract, made and entered into at any time after the effective date of this act, one party to such contract or obligation has an express right to recover attorney fees from any other party to the contract or obligation in the event the party having that right shall bring an action upon the contract or obligation, then in any action on such contract or obligation all parties to the contract or obligation shall be deemed to have the same right to recover attorney fees, and the prevailing party in any such action, whether by virtue of the express contractual right, or by virtue of this act, shall be entitled to recover his reasonable attorney fees from the losing party or parties.

Right to recover
attorney's fees—
prevailing parties
to contracts.

Approved March 9, 1971

CHAPTER NO. 260

An Act Amending Section 91-3906, R.C.M., 1947, to Provide that the Order Discharging an Executor or Administrator Must Be Made Within Two Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-3906, R.C.M., 1947, is amended to read as follows:

Amending clause.

"91-3906. **Final settlement, order and discharge.** When the estate has been fully administered, and it is shown by the executor or administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, under the order of the court or judge, all the property of the estate to the parties entitled, and performed all the acts lawfully required of him, the court or judge must make an order discharging him from all liability to be incurred thereafter. *If the estate has not been distributed in its entirety, and the executor or administrator discharged within two (2) years from the date of initial appointment of the executor or administrator, the clerk of the district court shall advise the district judge thereof and the judge shall notify the executor, administrator and his attorney of record to ap-*

Final settlement.

Order of discharge
from liability.

Duty of clerk to
advise judge of
estates not closed
in 2 years.

Order to show
cause.